

The opinion in support of the decision being entered today was not
written for publication and is not binding precedent of the Board

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL D. HILLMAN, EVAN T. WARD
and PAUL B. SPECHT

MAILED

APR 07 2004

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Application No. 09/724,279

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 11, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On September 4, 2004, an Examiner's Answer was mailed (Paper No. 22). A review of the Examiner's Answer reveals that

the information contained therein pertaining to the required appeals conference is not in compliance with the Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., rev. 1, Feb. 2003).

According to MPEP § 1208:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the type or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

The Examiner's Answer was not initialed or signed by the conferee's as required under MPEP § 1208.

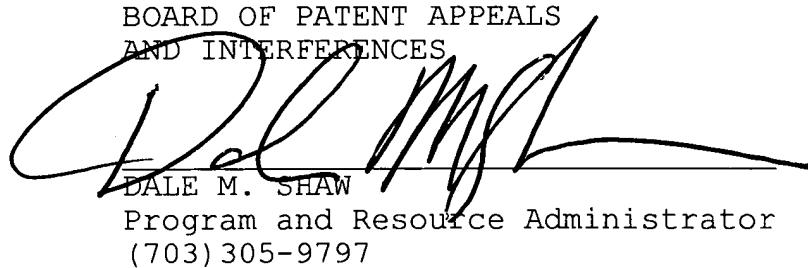
Accordingly, it is

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ORDERED that the application is returned to the examiner to:

- 1) vacate the Examiner's Answer dated September 4, 2003 (Paper No. 22);
- 2) correction of the Examiner's Answer to acknowledge the Appeals Conference, by identifying the names, initials and/or signatures of all conferee's;
- 3) for such further action as appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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